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Meeting Minutes
January 26th, 2012
7:30 p.m., City Hall, Room 209

Meeting opened at 7:35 p.m.

MEMBERS PRESENT: I. Wallach, R. Matthews, S. Lunin, N. Richardson, J. Hepburn, D. Green, and J. Sender; Alternates: B. Unsworth, R. Gallogly

MEMBERS ABSENT:

MEMBERS OF THE PUBLIC: See attached sign-in sheet

Hemlock Gorge Spillway Dike(dam)-Continued for new information -Proposal to repair/replace dam on Charles River, and install new underground chamber and pad and bench in 200 ft riverfront area, bank, and land under water-body.

Report: Revised, stamped plans dated 1-9-2012 have been submitted as part of supplemental filing. These include calculations of BLSF impacts and compensatory mitigation, and are stamped by an engineer. The boring logs have also been supplied.

Changes include: 1) A reduction in the requirement for compensatory flood storage (**per 10.57(4)(a) and Sec. 22-22**) – current calculations report a new gain in compensatory flood storage area by cutting away some of the slope to make it more gradual – engineering has checked calculations; 2) the vault (for future hydroelectric power, and the low-water by-pass pipe) has been scaled back so that it does not protrude above the surface, eliminating the need for a retaining wall; 3) email requests the bench will NOT be installed- the finished slope will still be very subject to erosion and making the bench a destination would add foot traffic to water flow to create erosion behind the wall, and since the ground level is lower, the bench would be facing the side wall of the stream with little scenic value. Also, the bench would have been located in a floodway; 4) Borings made after initial filing indicate (> 100 cy) more than 600 cy of dredge will be removed from land under water body (see 10.56), so applicant will apply to US ACE for dredge permit – if dredge spoils are temporarily stockpiled on site, they will be situated so that run-off goes back into work area; 5) Applicant has notified MA Historic of work on historic structure; 6) There are now three (3) mitigation sites proposed, and plants will be replaced at 2:1 ratio (numerical replacement, not diameter at breast height, for ~33 trees removed). No mitigation plantings will be placed over a Newton easement(s).

Conservation Commission
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Re-stabilizing the actual work site is proposed to be done with a grass/wild-flower planting mix utilizing all native species.

The expansion of the dam, the new work (installation of vault), 'armoring' of bank adjacent to dam is mostly alteration of flood zone, and compensatory flood storage created during construction more than compensates. Trees to be removed from riverfront area are to be 'replaced' in three mitigation areas at 2:1 ratio, and the site must be re-stabilized after construction. No mitigation offered (and none required) for disturbance of land under water body – the removal of accumulated sediment from behind the dam may be considered an improvement, while the creation of a "plunge pool" downstream is in an area unlikely to provide good habitat for either fish or invertebrates. The paving of a "sidewalk" along the 128 off-ramp will prevent the erosion of material into the river, and help limit foot traffic to a defined route. Erosion and sediment control measures have been incorporated into the plans, as has a plan to re-vegetate all disturbed areas after work is completed. Recommendations from MA DEP and Newton Engineering have been incorporated into the plans and the recommended special conditions (please see packet for recommended special conditions – OK'd with GZA and incorporated into plan notes, for the most part). Planner recommends issue OOC with special conditions –including that mitigation areas and mitigation plantings be maintained as on-going condition.

Meeting: Chad Cox, GZA Consulting, and William Gode, DCR Dam Safety Division, were present to update the commission on issues since the last meeting (most described above). In response to the commission's questions about a fish ladder, they have checked DCR and Fish & Wildlife records and confirmed the circular dam is a better place for, and the designated site for a fish ladder. More material will be "dredged" from the site because borings indicate the bedrock is farther down than first estimated, and DCR wants the base of the new dam to rest on the bedrock. DCR has applied to MA DEP for a water quality certificate and to US ACE for a small dredge permit. GZA and the Sr. Planner developed a modification to suggested condition #5 (in packet), which the Planner read into the record. The condition is expanded to further protect trees on the site. D. Green asked about the paved 'sidewalk' adjacent to the roadway. It is within the road layout so the area soils were probably altered when the road was built, and paving it will prevent the need for wood chips or gravel which would surely erode into the river. **Motion to issue an OOC with standard conditions and 20 special conditions, including re-wording of condition #5 (GZA proposed Jan. 19th, 2012). Motion seconded. Vote: All in favor. Motion passed.**

Hammond Pond Area ANRAD-Wetland delineation for bordering vegetated wetland (upper boundary only)

Report: Applicant has requested a continuance to Feb. 23rd Meeting.

Meeting: The commission agreed to continue.

119 Harwich Rd. Amended NOI- Owner proposes to remove two more red maples within 25 ft of bordering vegetated wetland and install a patio

Report: Applicant proposes 25 ft by 18 ft paver patio off the back of the house. There is a "mediation" area proposed, equal to the portion of the property within the 25' distance from BVW edge, but with no dimensions or area given. Three trees, of unspecified size are proposed: a flowering dogwood, a cherry birch and a box elder. Plan shows proposed erosion control, but no stockpile area for excavated material. Recommend approval with conditions.

Meeting: Karen Catrone represented the project, with owners Vlad Vilkomir and Viktoriya Vilkomir present. Four red maples (one dead) are now proposed for removal, and owner proposes to build a 18 ft x 22 ft patio, that would replace vegetation less than 50 ft from the bordering vegetated wetland. Env. Planner said that the applicant's "pervious paver" patio only has pervious "grout", and that when

this material compacts, it is no longer pervious. The planting mitigation plan was discussed, and applicant agreed to modify it. **Motion to approve amended OOC to replace the proposed dogwood in rear with two (same species) native viburnums, and a third (native) tree will be planted somewhere in the buffer zone. Maintenance of a mitigation planting area/mitigation plantings shall be an on-going condition. Motion seconded. Vote: All in favor. Motion passed.**

DCR Yearly Operating Plan (VMP) for Newton RDA-Continued to Jan. 26 meeting

Report: We have still not received plans (scaled 1:50 or less) showing wetlands relative to proposed work, and no site visit. My last conversation with applicant indicated they were trying to formulate some plans.

Meeting: The commission agreed to continue to Feb. 23, 2012, provided applicant agrees.

17-19 Dunstan St. NOI –After-the-fact for enlargement and paving of driveway in the 200 ft riverfront and in flood zone, and mitigation for prior OOC

Report: Owner's representative contacted Env. Planner for COC. Upon review of file, and site visit by engineering, a letter was sent to notify the applicant that he was not in compliance with OOC 239-234 issued in 1997. Driveway, which was to remain gravel had been enlarged and paved, and no mitigation plan was implemented.

Special condition #25 of 239-324 (in packet) requires a planting plan "prepared by a wildlife professional" be presented to the Commission and approved. And, condition #29 requires maintenance of the planting area as an on-going condition. A planting plan in file indicates a 10 ft planting strip with Rhododendrons, white mulberry, mountain laurel and ferns was to be planted. A second plan in file (1998 as-built plan for ISD?) indicates a mix of Rhododendrons, blueberry, inkberry and ferns. However, it appears that neither plan was implemented.

In 1998, the Env. Planner signed off for a Certificate of Occupancy, but site was not yet stabilized, and no mention of plantings. In 2000, a Notice of Violation was sent to owner, noting that garage in flood zone was supposed to have openings to allow "flow-through" in the 100-yr flood. Holes had been blocked. Current Env. Planner has asked applicant's engineer for confirmation that 1) openings in garage are present and un-blocked to allow entry to flood water, and 2) first floor living space is above the flood elevation.

The current NOI proposes to keep enlarged driveway pavement area, replace two catch basins in driveway with deep sumps and gas traps, and direct water from here to leaching galleys at side of house near Cheesecake Brook. The removal of existing shrubs (non-natives), and the installation of three mitigation areas are proposed on plan, but planting area #2 partly overlaps the leaching galley, so that only shallow-rooted plants could be planted here. Env. Planner does not recommend approval of the proposed planting plan, as it includes no evergreens (Rhododendrons offer virtually no wildlife value and are not as good protection in winter as are needle-bearing evergreens), has too few species, and is mostly very low-growing (low-bush blue-berries and 'herbs').

Also, there is an issue regarding whether the building meets requirements for flood-zone construction, that Env. Planner is discussing with ISD and the Law Dept. Planner will discuss further at the meeting.

Meeting: Condominium owner Francisco Estrada-Belli (17 Dunstan St.) was present, and Lawrence Lee, Esq., represented the project. Mr. Lee asked to continue the hearing to the Feb. 23rd, 2012, meeting to address the issues raised. The commission agreed to continue.

55 Boylston St. NOI/ RDA-Tear down and reconstruct commercial building on ~same footprint, a portion of which is in the 100 ft buffer to BVW and/or bank

Report: This is a tear down and re-build of the “Macy’s” building. The columns and footings for the second floor over-hang are in the 100-ft buffer zone. The shopping center proponent does not want to work under an OOC, so has filed both a RDA and a NOI for proposed work, and hopes the commission will issue a negative DOA. Footings will be larger than originals, basement is being expanded, and applicant expects to have to de-water excavated areas to pour cement. Whether work is in or out of buffer zone, all water from de-watering of excavation sites is proposed to go into Hammond Pond – either as sheet-flow across the pavement, or directed to the over-flow pipe(s) of the bio-retention swales.

In 2008, the Env. Planner reviewed an application from Shaw’s Supermarket (submitted by McPhail Assoc., Inc.) for a NPDES permit for, primarily, de-watering to Hammond Pond. Borings taken from the site had levels of cadmium, copper, lead and iron higher than EPA limits for groundwater discharges to “waters of the U.S.” Because there is ~ no flow (slow dilution rate) through Hammond Pond, the applicant was not allowed to de-water to Hammond Pond. Recommend approval of revised plan dated 1-12-12, and modified NOI for OOC with following special conditions:

- 1) No groundwater removed during de-watering of construction sites shall be released to Hammond Pond, UNLESS an EPA-certified lab test indicates that ground water in the area proposed for de-watering does not have heavy metals at levels exceeding DGP limits.
- 2) If EPA-certified lab test indicate that ground water in the area proposed for de-watering does not have heavy metals at levels exceeding RGP limits, such water shall be treated for removal of total suspended solids (TSS) by fractation tank, and then filtered through a silt fence prior to its release to Hammond Pond.
- 3) Concrete wash-out water shall not drain to Hammond Pond, nor shall it be put into catch basins that drain to Hammond Pond.
- 4) No oil, gas, or other pollutants shall be stored in the buffer zone unless locked into an appropriate HazMat container at night and on weekends. Absorbent pads shall be maintained on site for adsorption of any drips or spills, and these shall be properly disposed of after use.

This project is subject to the storm water regulations (see especially 10.05(6)(k), and requires an Order of Conditions to assure minimal compliance with them. This project meets the minimum standards, provided that conditions above are met. Project proponent says new roof will provide cleaner run-off, but that is the only improvement in run-off from the site. Commission might ask proponent to agree to complete work necessary for City of Newton to record easement to maintain sand filters (OR provide all paperwork to accept responsibility to maintain them), prior to issuance of COC. This step was supposed to be completed prior to close-out of 319 grant and OOC for installation of sand filters.

Meeting: Present for the project were Bob Frazier, W.S. Development, Jen Viarengo, Appledore Engineering, and Frank Stearns, Esq., K&L Gates. F. Stearns said they are ready to proceed as a NOI filing in an effort to speed the proceeding. The erosion control was described by J. Viarengo. She said the heavy metals found on the Shaw’s site may be from fill materials used when the shopping center was first constructed. The de-watering plan has been further revised, and an infiltration basin proposed as an improvement to the stormwater run-off conditions. The latter will collect run-off from a one (1) inch storm over 2,500 sf of roof area, and might be able to hold a bit more. Env. Planner read aloud the revised special conditions. **Motion made to require a NOI (and OOC). Motion seconded. Vote: All in favor. Motion passed.** F. Stearns said they would like to withdraw their RDA. **Motion made to issue an OOC with the standard conditions and the revised special conditions (3 and 4 from above) with three (3) presented at meeting. Motion seconded. Vote: All in favor.**

229 Winchester St. Violation

Report: The Env. Planner received a report of owners putting up a fence in riverfront. A site visit was conducted. A greenhouse that was to be removed under their prior OOC was returned to the site in FEMA flood zone, chain-link/wire fence up on property of 229 and on property of owners across the river (address on Rockland St), driveway wider than approved by OOC (although engineer certified it for COC), and garbage being stored on wooded "deck" cantilevered over brook. Advised owner that 1) greenhouse needs to be removed immediately from flood zone, and 2) garbage must be removed from wooden deck. Fence can be allowed as exempt minor activity under RDA/DOA, provided the Commission agrees it does not interfere with wildlife passage. Not sure if commission can require driveway to conform to record plan.

Meeting: The Env. Planner said she has spoken with owners, who chose not to attend, but asked the commission to advise what they would like. Owners have removed the greenhouse and the fence, and the trash cans have been relocated away from So. Meadow Brook. The commission asked the Env. Planner and/or Engineering to check whether the driveway complies with the OOC for 229 Winchester, and if not, to invite the engineer (Mike Kosmo) to attend the next meeting to discuss why he certified the work was in compliance for a COC.

Violations (new and updates):

320-322 Needham St. EO – Owner did not attend Oct or Nov meeting-Letter to be sent

Meeting: I. Wallach asked Planner to send a letter inviting owner to appear.

73 Beaconwood Rd. EO-In the Law Department

Meeting: Still pending.

193 Oak St. Village Condos EO – O&M plan to be approved

Meeting: Env. Planner reported that plan submitted seems fine, but it should be signed by the condominium 'owner', rather than the landscaper.

Certificates of Compliance:

Riverside MBTA Station- No as-built or letter submitted

Meeting: No new information.

299 Winchester St. –Sign corrected copy

Meeting: The commission declined to sign until all issues are resolved.

17-19 Dunstan St. –Applicant is not in compliance with old Order (see above)

Discussion/Reports:

Kennard Buildings new use –J. Sender

Meeting: I. Wallach, as Chair of the Commission, is a trustee of the Kennard Park Conservation Trust. He delegated J. Sender to act in his stead, and she met with R. Rooney and R. DeRubeis. The Ordinance says the trustees must ensure that income from the property is spent for Parks purposes. Trustees agreed any use should be consistent with park purposes. The current use by the city is temporary.

383 Dedham St. CRCC- Report on four (4) outstanding OOCs

Report: CRCC requested a certified copy of the OOC for 239-364 (Various work in wetland under "Watershed Management Plan") for recording. Proof of recording has been received.

Paul McManus of EcoTec informed me that two white pines have been planted at the pump house and the erosion control materials have been cleaned up (239-449, pump station). With regard to other outstanding Orders, there is nothing new.

Meeting: The commission directed the Env. Planner to send a letter to the president/CEO of the CRCC, instead of trying to deal with the manager and EcoTec. D. Green will find out who should get the letter.

Shaw's donation for drainage improvements for Hammond Pond-J. Sender: Discussion and vote to accept

Meeting: The commission is waiting on a plan and information from DOT. The Env. Planner reported that DCR has made a commitment since the last meeting to analyze the outfall discharge into Hammond Pond. D. Green said we have a verbal commitment from Shaw's to give the city the \$150,000 when we have a plan.

Lot 5 Kessler Way.-Superseding OOC issued affirming Newton CC's OOC; New appeal of superseding OOC filed by abutter

Meeting: Env. Planner reported that next week is a pre-hearing conference on the appeal.

Announcements & General Business:

December 15th, 2011 Meeting Minutes for approval

Meeting: Motion to approve minutes of Dec. 15th, 2011. Motion seconded. Vote: All in favor. Motion passed.

Motion to adjourn. Motion seconded. Vote: All in favor. Motion passed. Meeting adjourned at 9:50 p.m.